

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

PAUL LAWRENCE BRUNER, III,)

Plaintiff,)

v.)

No. CIV-22-1104-R

LAWTON CORRECTIONAL)

FACILITY REHABILITATION)

STAFF,)

Defendant.)

ORDER

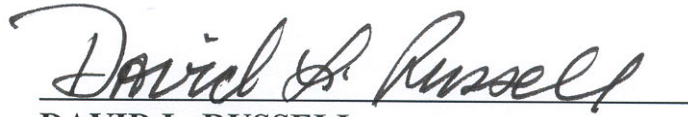
Plaintiff filed this action on December 29, 2022, alleging the violation of his constitutional rights. (Doc. No. 1). Pursuant to 28 U.S.C. § 636(b)(1)(B) and (C) the matter was referred to United States Magistrate Judge Amanda Maxfield Green (Doc. No. 4). On January 4, 2023, Judge Green ordered Plaintiff to cure certain deficiencies because he had not tendered the \$402.00 filing fee nor had he filed a motion seeking leave to proceed *in forma pauperis*. (Doc. No. 5). Plaintiff complied and on February 6, 2023 filed a Motion for Leave to Proceed *In Forma Pauperis* (Doc. No. 7). On February 9, 2023, Judge Green granted Plaintiff's motion and ordered him to submit a partial filing fee not later than March 2, 2023. On March 6, 2023, Judge Green issued a Report and Recommendation (Doc. No. 9) wherein she recommend the case be dismissed without prejudice because Plaintiff failed to submit the \$37.97 partial filing fee. The matter is currently before the Court on Plaintiff's timely objection to the Report and Recommendation, which gives rise to this Court's

obligation to undertake a de novo review of those portions of the Report and Recommendation to which Plaintiff makes specific objection.

In his objection Plaintiff does not address the issue of the partial filing fee. Rather, he takes issue with Judge Green's involvement in this case, asserting that he was unaware the case had been referred to her. Plaintiff, however, was aware the case had been reassigned to the undersigned judge. According to the docket sheet the Clerk of Court mailed a copy of Plaintiff's Complaint, the order reassigning the case and the order referring the case to Judge Green in the same envelope on December 30, 2022. Accordingly, it appears unlikely that Plaintiff was unaware. Regardless, the case was so referred and Plaintiff responded to Judge Green's order of January 4, 2023 by filing a Motion for Leave to Proceed *In Forma Pauperis*. There is no basis in his objection for declining to adopt the Report and Recommendation, nor is there any indication therein as to why he did not submit his partial filing fee.

Accordingly, the Court hereby ADOPTS the Report and Recommendation (Doc. No. 9) and the case is hereby DISMISSED WITHOUT PREJUDICE. The Court is also in receipt of a letter filed March 13, 2013, wherein Plaintiff asserts that he is entitled to default against the Defendants in this case and in each of his pending actions. Because the issue of Plaintiff's filing fees has not been resolved, none of the Defendants in any of his cases has been served with process. Indeed, pursuant to the Court's Local Civil Rule 3.3(d), these cases are only conditionally filed. None of the Defendants is obligated to respond to the litigation until such time as ordered to do so by the Court per Local Civil Rule 9.2(c) and accordingly, his request for the entry of default and the payment of money is DENIED.

IT IS SO ORDERED this 22nd day of March 2023.



DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE